

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN WILLIAM CRISMORE**, on April 17, 2001
at 3:00 P.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. William Crismore, Chairman (R)
Sen. Dale Mahlum, Vice Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Glenn Roush (D)
Sen. Ken Toole (D)

Members Excused: Sen. Mack Cole (R)
Sen. Lorents Grosfield (R)
Sen. Bill Tash (R)
Sen. Mike Taylor (R)

Members Absent: None.

Staff Present: Nancy Bleck, Committee Secretary
Mary Vandembosch, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HJ 44, 4/13/2001; HJ 42,
4/13/2001
Executive Action: HJ 44; HJ 42

HEARING ON HJ 44

Sponsor: REP. AUBYN CURTISS (R), HD 81, Fortine

Proponents: None.

Opponents: None.

Opening Statement by Sponsor:

REP. AUBYN CURTISS, HD 81, Fortine, opened by saying that **HJ 44, EXHIBIT (nas86a01)**, requested federal intervention to stabilize wholesale electricity prices in the west. The President of the United States, the U.S. Department of Energy and the Federal Energy Regulatory Commission (FERC) would be requested to implement short-term measures to reduce wholesale energy costs. They would be requested to develop and implement a long-term strategy to reform the wholesale energy market to avoid continued price hikes, provide necessary assistance to low-income citizens in paying for their high energy bills, and to allow western states to work out their own energy supply needs; to refrain from issuing additional orders to northwest energy suppliers requiring them to transmit electricity to California. She distinguished between the fact there were some things the state could do statutorily and other things that could not be taken care of that were up to the discretion of federal agencies and **HJ 44** just called upon the federal government to reinforce what the state of Montana has done. **U.S. SEN. CONRAD BURNS** and other members of congressional delegations were working to get the inner tie issue fixed at Miles City for better transmission capability and **HJ 44** just brought the problem to their attention.

Questions from Committee Members and Responses:

SEN. BEA MCCARTHY stated she supported **HJ 44**. **SEN. VICKI COCCHIARELLA** asked if **HJ 44** was the kind of resolution the other states were doing. **REP. CURTISS** stated that was correct and a similar resolution was passed in Washington state. **REP. CURTISS** pointed out the amendment on lines 22 and 23 was offered by the Public Service Commission. **VICE-CHAIR DALE MAHLUM** asked **REP. CURTISS** what good she thought this resolution was going to do. **REP. CURTISS** stated it would give our congressional delegates some support in addressing the energy problem. **SEN. MCCARTHY** asked about another resolution from Washington state that was transmitted to the governor of California and inquired about **REP. CURTISS** only choosing to submit this one resolution. **REP. CURTISS** said this resolution seemed more appropriate to meet the needs of Montana and the other Washington state resolution was good, but she felt it was outside the state's ability to address. **SEN. KEN MILLER** stated he was concerned when the Federal Energy Regulatory Commission took power from Montana, basically, to take care of California's needs and questioned whether it would be good to have language in **HJ 44** that there was not support in taking care of the energy problem by putting others in jeopardy,

such as the state of Montana. **REP. CURTISS** said she thought **HJ 44** addressed the issue and asked that the utilities, that had foregone power to supply the needs in California, be reimbursed. **SEN. GLENN ROUSH** questioned if proposing this legislation attempted to change the formula of the power grid system. **REP. CURTISS** stated **HJ 44** did not intend to upset any formula. She added **HJ 44** asked both the U.S. Energy Department and the FERC to pay attention to Montana's needs.

Closing by Sponsor:

REP. CURTISS closed by urging concurrence in **HJ 44**.

EXECUTIVE ACTION ON HJ 44

Motion/Voice Vote: **SEN. COCCHIARELLA** moved that **HJ 44 BE CONCURRED IN**. Motion carried unanimously. Vote was 7-0. **SEN. BEA MCCARTHY** will carry **HJ 44** on the Senate floor.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 9.7}

HEARING ON HJ 42

Sponsor: **REP. CHRISTINE KAUFMANN (D), HD 53, Helena**

Proponents: None.

Opponents: Cary Hegreberg, Montana Wood Products Association

Informational Witness: Ann Bauchman, Administrator, Centralized Services Division, Montana
Department of Natural Resources
and Conservation

Opening Statement by Sponsor:

REP. CHRISTINE KAUFMANN, HD 53, Helena, stated that during her first legislative session, she served on the Natural Resources subcommittee with **CHAIRMAN BILL CRISMORE** and **SEN. BILL TASH** dealing with the fire supplemental funding issue during the very first week. She stressed that one of the first bills that passed through this 2001 session was for an emergency \$7 million for funding to help the Montana Department of Natural Resources and Conservation (DNRC) pay for their portion of the 2000 fires. The

DNRC had used funds from all over their budget of general fund dollars and additional money was needed to continue operating for the remainder of the fiscal year. She said she was surprised when she learned the state funded the fire program up to the point when a fire ignited and then funding ceased until monies could be taken from all over the DNRC and then the department would have to come in later to the legislature for a fire supplemental. She said the state could be relatively assured of some degree of fire activity each year. The cost to suppress fires was in the \$4 million range in an average year. The state was not budgeting for the costs up front. **REP. KAUFMAN** said she found that hard to understand and, therefore, proposed this resolution, HJ 42, **EXHIBIT (nas86a02)**. She reported fire fighting costs increased substantially when firefighters were faced with protecting homes, rather than simply fighting a wildland fire. **REP. KAUFMAN** stated she presented a bill to the House Taxation Committee that placed a tax on people who build in the wildland, urban interface, though not to find fault with that choice, but the circumstance was that it became far more expensive to fight wild fires in that manner. The bill failed in the House by a vote of 11-9. During the course of that bill, a lot of appropriate questions were raised regarding who should fund wildfire suppression. It was discussed that the funding be shared equally among the residents of the state, as certainly all residents were impacted with air quality issues and loss of recreational opportunities and so on. On the other hand, the discussion involved the issue that a lot of the resources were devoted to the homes built in the interface area, so those residents should be asked to bear a greater share of the costs. She thought the Bucksport Fire of 2000, in the Helena area, cost about \$4.5 million and she learned from **SEN. GREG JERGSON** the DNRC had estimated the cost at \$500,000, if there had not been a lot of homes in the area to protect. She added that the state's share of the fire fighting costs of 2000 was likely to be about \$15.5 million after the Federal Emergency Medical Assistance (FEMA) reimbursed the state what they were willing to pay. She noted the state was headed into another fire season, potentially as equally catastrophic as the last, prompting her decision to propose a study resolution involving the appropriate people to explore and address the issue of funding of wildfire suppression in Montana. She reported that last season, FEMA stepped forward and was willing to fund an approximately \$20 million payment up front, which was why the state did not have the sort of financial disaster it could have had, as well as the wild fire disaster. **REP. KAUFMAN** stated if HJ 42 passed, it would be added to the list of study resolutions the legislature would then prioritize and select from for study. She added she hoped it would be a top priority next session, providing some ideas to present a better way to fund future wild fire suppression.

Opponents' Testimony:

Cary Hegreberg, Montana Wood Products Association, stood as an opponent to HJ 42 largely because his association believed there were other study resolutions with similar topic matter of higher priority. He stated he understood it was not a lobbyist's role to determine priorities of resolutions but he turned the committee's attention specifically to **HJ 21** introduced to the Senate Natural Resources Committee by **REP. RICK LAIBLE**. **HJ 21** addressed the concern of studying the fuel loading in the urban and wildland interface and the need to address forest fuels management. He said he thought **HJ 21** would probably have some overlap with **HJ 42**. He reported, most notably, his association thought that from the forest management perspective, that if forest fuels were managed appropriately, fire suppression costs would be decreased. He proclaimed fire would never be completely eliminated from our ecosystems or from our urban, rural interface, but with proper fuels management, the risk of those fires taking on the kind of characteristics that cost so much money to fight, noting our scarce funding resources, could certainly be minimized.

Informational Testimony:

Ann Bauchman, Administrator, Centralized Services Division, Montana Department of Natural Resources and Conservation, stated she was here to provide information regarding the financial side of fires. She reported, that over the last ten years, it had been an issue with the Legislative Fiscal Division that fire funds were not appropriated in the budget. In looking at this last fire season, for instance, the Forestry Division of the DNRC used its regular appropriation of general funds for fire suppression. The division had \$5.7 million beginning in 2001, \$4 million of that was moved forward to pay for the 2000 fire costs so in July 2000, the DNRC started the new fiscal year with \$1.7 million to pay for the Forestry Division and fire suppression. Those funds were depleted by the end of July 2000. Then, the Governor's Emergency Fund provided \$5.1 million and those funds were gone at the end of August 2000. The DNRC, then, looked internally for another \$2 million and the Montana Department of Environmental Quality borrowed some money to the DNRC, as they were desperate. It was FEMA that threw out their rules and came in and advanced funds to the state that allowed the state to continue operating and really saved Montana, as **REP. KAUFMAN** noted. **Ms. Bauchman** reported funding for fire suppression costs had become more challenging because the dynamics of fighting fires had changed so much, forcing to provide structural protection instead of curtailing the fire and pinching it off and putting it out, like the state usually did. The average fire

fighting costs in fiscal year 1997 were about \$2.5 million compared to about \$3.7 million in fiscal year 2000. She reasoned that costs in general were going up and the general fund, within the DNRC, was going down, leaving fewer resources. **Ms. Bauchman** stated that, currently, the DNRC was also exploring a different way of funding the issue regarding equity in relation to how pre-suppression costs were figured. Most of the western part of the state paid assessments for pre-suppression activities. The pre-suppression costs covering the eastern part of the state were paid by the state. She said that issue would most likely be dove-tailed in to the entire general funding of fire suppression.

Questions from Committee Members and Responses:

SEN. BEA MCCARTHY asked how the DNRC's process worked regarding payment of fire costs, specifically whether payments were required up front, before contractors would bring equipment in to fight a fire. **Ann Bauchman** said a lot of the costs were paid upon receipt of the bill, usually within two to four weeks, and many costs resulted from the DNRC's own requests, whether for bulldozers or for hiring of emergency fire fighters. She reported there was a great deal of costs that were actually ordered by the U.S. Forest Service (USFS) for air support, retardant, and the call for out-of-state resources. Those costs did not have to be paid until the bill was received from the USFS, which was usually April of the following year which provided some reprieve on some of the big ticket items. **SEN. VICKI COCCHIARELLA** asked if timber that had been burned was worth more than timber that had not been burned. **Cary Hegreberg** said it was pretty safe to say that green timber that had not been burned was worth somewhere in the neighborhood of twice as much as timber that had been burned. He emphasized its value also depended on how long it had been standing since being burned, as it literally lost value every day. He added that spring weather brought warmer temperatures, bugs, and the pine started to "blue stain" and the tree started to "check". **SEN. COCCHIARELLA** asked if there were services that were provided from the Forestry Division of the DNRC that were valuable to the timber industry. **Mr. Hegreberg** responded "yes" and explained the DNRC provided forestry assistance and expertise, based out of its Missoula office, to private landowners, which was somewhat different than the role the Forestry Extension Service played. The DNRC's regulatory side of forestry management provided slash management, inspections, and so on. **SEN. COCCHIARELLA** said it was disturbing that **Mr. Hegreberg** stood in opposition to **HJ 42** since taking funds from the Forestry Division's budget to fight fires lessened funds for assistance that greatly benefitted the wood products industry. **Mr. Hegreberg** said his understanding was that those

were separate budget line items and that the more money that was spent on fire fighting was not necessarily going to diminish the assistance given to private landowners. He said if that was the case, he certainly would rethink his position on this resolution. He stated that during a fire season like the last season, a lot of resources normally in private forestry were, by necessity, forced over for fire funding. **Mr. Hegreberg** emphasized his association's concern with the ranking of resolutions and interim studies. He emphasized that fuels management was as issue of paramount importance to the state because we were going to continue to see catastrophic fires if we did not do something about the forest fuels. He said **HJ 21** attempted to deal with the issue and he would hate to see it set aside when a similar kind of interim study might be embarked upon that addressed some of the same kinds of issues. He was not opposed to the two issues being melded together, if that was even possible, as they dealt with similar issues, but from a different angle. **SEN.**

COCCHIARELLA confirmed that was her point also and stated she trusted **Mr. Hegreberg's** background with his stand on the importance of **HJ 21**. **SEN. COCCHIARELLA** discussed the issue of raising the level of awareness to the people buying and building homes in the interface areas and raising awareness to all people of Montana of what fires were costing the state and of the cost impact of protecting homes in the wild land interface areas. She stated the use of studies relating to forest fuels would help address the huge costs spent dealing with fires providing a better outcome in the end. **Mr. Hegreberg** said he was on the Board of Directors of the Keep Montana Green Association and one of their primary objectives was fuels management in the urban interface. Part of the education process of Keep Montana Green was to encourage people who were moving into the urban, rural interface, to understand the dynamics of where they were building and to create defensible space around their property and to make it accessible to fire fighters. It was a tremendous education problem, because people liked to live up in the woods and often did not consider some of the consequences they might face later on. **Mr. Hegreberg** stated, again, that he did not mean to sound like he had some vehement opposition to **HJ 42** but emphasized the importance of addressing the fuels management problem. **SEN. KEN TOOLE** asked if FEMA had not assisted last year, would the state have been unable to pay contractors and its staff. **Ms. Bauchman** responded that was the case though the DNRC had met daily with the budget office to find resolutions and were looking at other state agencies for agency transfers to address the trouble with that. **SEN. TOOLE** questioned if the state, in the past, had ever been late on payments to contractors or personnel. **Ms. Bauchman** responded there were similar problems during the 1994 fire season, still under the Department of State Lands. An agency fund transfer was done from the DNR to help alleviate the fire

funding problem at the Department of State Lands. **SEN. TOOLE** asked what the higher priority would be if the DNRC would have to choose between the contractors getting paid and the state employees being paid. **Ms. Bauchman** responded she did not believe the DNRC was ever faced with that choice, but that personnel services and salaries had always been a priority as that commitment came with hiring someone. She stated the DNRC had 30 days for payment to contractors and that time limit had probably been reached in the past. She believed the DNRC always tried to borrow funds from other sources to fulfill the payment of contractors. **SEN. TOOLE** asked if **HJ 21** addressed the capability of the DNRC regarding fuels management relating to fire management. **Mr. Hegreberg** offered a copy of **HJ 21** and stated it addressed open burning, forest slash management, prescribed burning, fuels management in the urban, rural interface, but did not necessarily address the DNRC. **SEN. TOOLE** asked **Mr. Hegreberg** if he had any concern with contractors not receiving timely payments and **Mr. Hegreberg** stated that issue concerned him as he represented many of the contractors. *{End of Tape: 1; Side: A}* **SEN. BEA MCCARTHY** commented that, regarding fires last year in her district, many local contractors dropped their jobs and obtained extensions on their own business contracts and assumed the risks relating to that action, just to be able to come in and assist with the fire disaster the state experienced. She commended those local contractors for providing the help needed. **VICE- CHAIR DALE MAHLUM** asked what monies were brought in by the trust lands last year. **Ms. Bauchman** reported approximately \$44 million was generated in the DNRC's management of state school trust lands last year which was deposited in to the general fund for Montana's public schools. **CHAIRMAN BILL CRISMORE** asked if the DNRC had money set aside to draw upon for fighting fires and if the state experienced a normal year, there would not be the need to go in for supplemental fire funds and there would possibly be money left over maybe in just that one fund that would carry over to the next fiscal year. **Ms. Bauchman** stated the DNRC had a **HB 2** general fund appropriation, within the Forestry Division, to manage the Forestry Division. She added those funds were appropriated for a separate purpose for pre-suppression and forest management and funds were then "borrowed" from that appropriation to pay for fire costs. The way the "fire supplemental" worked was that, at the end of the first year of the biennium, the DNRC pulled forward the amount of the total fire costs from the second year. She explained the process by providing some hypothetical examples. **Ms. Bauchman** stated that in every fire case, the DNRC had to go for fire supplemental, as there was no appropriation for fire suppression. **CHAIRMAN CRISMORE** reasoned that if a catastrophic fire happened in the first year of the biennium, it would be assumed that the governor would have to call a special session of the legislature for

appropriation of funds for the DNRC to continue operating in fighting the fire and **Ms. Bauchman** confirmed that would be the case.

Closing by Sponsor:

REP. KAUFMAN commented about **Mr. Hegreberg's** opposition and said she just reviewed **HJ 21** and it seemed like an important resolution though it did not address the funding issue. She felt certain that should **HJ 42** and **HJ 21** be selected for study, they would be assigned to the same committee to be worked on jointly. She emphasized that even in years that did not experience catastrophic fires, the state still had a fire season with some costs. She recommended those costs be built into the budget in some kind of a structured way so as not to face the prospect of calling a special session for funds appropriation or taking funds from other state departments. **REP. KAUFMAN** closed by urging concurrence in **HJ 42** so it could be jointly studied along with **HJ 21**.

EXECUTIVE ACTION ON HJ 42

Motion: **SEN. COCCHIARELLA** moved that **HJ 42 BE CONCURRED IN**.

Discussion: **SEN. COCCHIARELLA** proposed an amendment to request if this study or the study requested by **HJ 21** was assigned by the Legislative Council, that both studies should be incorporated together and conducted jointly.

Substitute Motion/Voice Vote: **SEN. COCCHIARELLA** made a substitute motion that **AMENDMENT TO HJ 42 BE ADOPTED**. Substitute motion carried unanimously. Vote was 7-0. Amendment HJ004201.amv, **EXHIBIT**(nas86a03), was received after adjournment.

Motion/Voice Vote: **SEN. COCCHIARELLA** moved that **HJ 42 BE CONCURRED IN AS AMENDED** by HJ004201.amv. Motion carried unanimously. Vote was 7-0. **SEN. COCCHIARELLA** will carry **HJ 42** on the Senate floor.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 9.5}

ADJOURNMENT

Adjournment: 3:45 P.M.

SEN. WILLIAM CRISMORE, Chairman

NANCY BLECK, Secretary

WC/NB

EXHIBIT (nas86aad)